



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration for Children and Families Tribal Advisory Committee
Rules of Order**

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1. MISSION STATEMENT

The Administration for Children and Families Tribal Advisory Committee's (ACF TAC) primary purpose is to seek consensus, exchange views, share information, provide advice and/or recommendations; or facilitate any other interaction related to intergovernmental responsibilities or administration of ACF programs, including those that arise explicitly or implicitly under statute, regulation or Executive Order. This purpose will be accomplished through forums, meetings and conversations between Federal officials and elected Tribal leaders or representatives in their official capacity as TAC Primary/Alternate Delegates.

2. PURPOSE OF ACF TAC

The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. In recognition of that special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian Tribes.

The Department of Health and Human Services Administration for Children and Families (ACF) has taken its responsibility to comply with Executive Order 13175 very seriously. On August 18, 2011, in compliance with President Obama's Memorandum for the Heads of Executive Departments and Agencies, signed on November 5th, 2009, on Consultation and Coordination with Indian Tribal Governments, ACF signed its first tribal consultation policy. On March 8, 2013, ACF proposed a set of initial activities to step up the Operating Division's efforts to improve services, outreach, and consultation efforts. The establishment of the Administration for Children and Families Tribal Advisory

Committee's (ACF TAC), one key piece of this plan, will bring the work of ACF's improvement efforts to a new level.

3. GOALS

- a) Identify evolving issues and barriers to access, coverage and delivery of services to AI/ANs, related to ACF programs;
- b) Propose clarifications and other recommendations and solutions to address issues raised at Tribal, regional and national levels;
- c) Serve as a forum for Indian Tribes and ACF to discuss these issues and proposals for changes to ACF regulations, policies and procedures;
- d) Identify priorities and provide advice on appropriate strategies for Tribal consultation on issues at the Tribal, regional and/or national levels;
- e) Ensure that pertinent issues are brought to the attention of Indian Tribes in a timely manner, so that timely Tribal feedback can be obtained;
- f) Coordinate with ACF's Program and Regional Offices' on Tribal consultation initiatives.

4. MEMBERSHIP

- a) **Appointment/Reappointment terms:** The Acting Assistant Secretary will send a letter to Tribal leaders requesting nominations for a TAC primary delegate and alternate from Indian Tribes categorized by the ten ACF Regional Offices; and will nominate four National At-Large Tribal Member (NALM) primary delegates and alternate positions.

The names of each TAC primary delegate and alternate delegate from the ten ACF Regional Offices, excluding Region III, will be submitted to the Administration for Native Americans (ANA) in an official letter from the Tribe. The Commissioner of ANA and the Acting Assistant Secretary will be responsible for selecting and finalizing the body of members.

Nominated members for the TAC will serve three staggered calendar year terms. Upon creation of the TAC, a lottery method will be used to assign two-year terms to six of the members (expected first term will expire on December 31, 2015). The remaining lottery method assignments of the remaining seven members will serve three-year terms (expected first term will expire on December 31, 2016).

- b) **Representation:** The TAC will include thirteen representatives to include one primary Delegate (and one Alternate delegate) from each of the ten ACF Regional Offices, excluding Region III and four NALM.

Representatives should be an elected official or designated Tribal representative that is qualified to represent the views of the Indian Tribes in the respective area for which they are being nominated. Nominations will be considered for selection in the priority order listed below.

- i) Tribal President/Chairperson/Governor
- ii) Tribal Vice-President/Vice-Chairperson/Lt. Governor
- iii) Elected or Appointed Tribal Official
- iv) Designated Tribal Official

In the event that there is more than one nomination in the priority list, letters of support from regional tribal organizations will be taken into consideration when selecting individuals for the primary and alternate delegates.

- c) **Alternate:** Each primary Delegate will have an Alternate delegate that has been selected for their specific Region or At-Large position. Should the Delegate be unable to attend a meeting, the Alternate has full rights to participation and voting privileges.
- d) **National At-Large Tribal Member (NALM):** In accordance with the Federal Advisory Committee Act (FACA) exemption of the Unfunded Mandates Reform Act (UMRA), ACF has incorporated the “NALM” positions as members of the TAC, to provide specific representation for the regional and national concerns of tribal governments.

All NALM members must either be elected Tribal officials, acting in their capacity as elected officials of their Tribe, or be designated by an elected Tribal official, in that official's elected capacity, with authority to act on behalf of the Tribal official. There will be one primary Delegate (and one Alternate delegate) for four NALM positions.

Nominations will be considered for selection in the priority order listed below:

- i) Tribal President/Chairperson/Governor
- ii) Tribal Vice-President/Vice-Chairperson/Lt. Governor
- iii) Elected or Appointed Tribal Official
- iv) Designated Tribal Official

In the event that there is more than one nomination in the priority list, letters of support from tribal organizations will be taken into consideration when selecting the individuals for the primary and alternate delegates.

In order to achieve the broadest coverage of ACF-related national perspectives and views, a NALM must be qualified to represent on a national and collective Tribal perspectives. Representation of such viewpoints includes groups such as the National Congress of American Indians; National Indian Health Board; Tribal Self Governance Advisory Committee; Urban Indians; National Indian Child Welfare Association; National Indian Headstart Director's Association; and the National Tribal Environmental Council.

- e) **ACF Representatives:** ACF anticipates that appropriate representatives from the following ACF offices will be actively involved, attend regular TAC meetings, and provide necessary assistance to the TAC to fulfill its mission:
 - i) Chief of Staff
 - ii) Office of the Deputy Assistant Secretary for Early Childhood Development
 - iii) Administration for Native Americans (ANA)
 - iv) Administration of Children, Youth and Families (ACYF)
 - v) Office of Child Support Enforcement (OCSE)
 - vi) Office of Community Services (OCS)
 - vii) Office of Family Assistance (OFA)

- viii) Office of Head Start (OHS)
- ix) Office of Human Services Emergency Preparedness and Response (OHSEPR)
- x) Office of Legislative Affairs and Budget (OLAB)
- xi) Office of Planning, Research and Evaluation (OPRE)
- xii) Office of Refugee Resettlement (ORR)
- xiii) Office of Regional Operations (ORO)
- xiv) Office of the Chief Medical Officer

5. ROLES

- a) **TAC Delegate** (Region/NALM representative or primary committee member): should be an elected official or designated representative, acting, in their official capacity, the delegate must be qualified to represent the views of the Indian Tribe(s) in the respective Region for which they have been selected. ACF will pay for the Delegate to attend TAC meetings. In the event that the primary Delegate cannot attend, ACF will provide funding for the Alternate Delegate to attend the meeting.
- b) **TAC Alternate**: should be an elected official or designated area representative, acting in their official capacity and is qualified to represent the views of the Indian Tribe(s) in the respective area for which they have been selected. ACF will pay for the Alternate Delegate to attend the meeting in the event that the Primary Delegate cannot attend. The Alternate Delegate will also be given full voting rights in this instance. They may attend all TAC meetings and activities, but cannot actively participate unless the seat is ceded by the primary delegate.
- c) **TAC Technical Advisor**: Tribal Delegates will be allowed to bring one TAC technical advisor to the meeting to assist them with their duties and responsibilities as a TAC member. If the TAC Technical Advisor is accompanying the TAC delegate/TAC Alternate he/she cannot actively participate unless the seat is ceded by the Primary Delegate/Alternate. The TAC Technical Advisor may always communicate directly with his/her TAC Delegate or Alternate. The Technical Advisor has no authority to vote.
- d) **ACF Representative**: Administration for Children and Families (ACF) representatives are determined by the Acting Assistant Secretary and he/she will be expected to attend all TAC meetings. In the event that the designated ACF representative is unable to attend the meeting, the next highest ranking official will be designated to attend. The ACF Representative has no voting capacity for quorum.
- e) **ACF Technical Advisor**: The ACF representative will be allowed to bring one ACF technical advisor to the meeting to assist them with their duties and responsibilities as an advisor to the TAC. The advisor must be either a full-time or permanent part-time officer or employee of the federal government. Due to the complexity of programs and services, ACF will work to ensure that subject matter technical experts are available when needed. The ACF Technical Advisor has no voting capacity for quorum.

6. CONDUCT OF MEETINGS

- a) **Participation**: The meetings will be limited to official representatives of the TAC that include

the Primary or Alternate Delegate with his/her Technical Advisor and the ACF Representative with his/her Technical Advisor. In the absence of the Primary delegate and the alternate the technical advisor may attend the meeting but not participate. Due to the complexity of programs and services ACF will work to ensure that subject matter technical experts are available when needed. ACF will utilize the Native American Affairs Advisory Council (NAAAC) as a vehicle to report activities, coordinate agendas, and organize follow-up of the TAC activities.

- b) **Quorum and Voting:** Total voting capacity of Primary Delegates and NALM representatives is 13 and quorum consisting of a majority, 7 out of 13. Voting can be performed in-person or, by telephone. Note that informational sessions may occur in the absence of a quorum.
 - i) The nine Delegates may vote. Should the Primary Delegate be absent, the alternate delegate shall vote.
 - ii) The Four NALMs may vote. Should the primary delegate be absent, the alternate delegate shall vote.
- c) **Decision Making Capacity:** TAC decisions and actions will be taken by a consensus of Tribal Region and NALM members. In an instance where a consensus cannot be met, an in-person or telephone majority quorum vote may be taken; or the Chair/Co-Chair may authorize subsequent polling of the positions.

7. DUTIES/EXPECTATIONS

- a) **Primary committee members:** must make a good faith effort to attend all meetings via teleconference or in person and may be accompanied by a technical advisor as outlined below.
- b) **Excused Attendance:** The request for an excused absence should be provided 2 weeks before the meeting, if possible, to arrange for travel for the designee. In extreme circumstances, a delegate and alternate who are not able to attend may be allowed to participate in the meeting via other means in compliance with the FACA exemption.
- c) **Termination:**
 - i) **Vacancy:** When a vacancy occurs for the Primary Delegate or NALM (for reasons such as resignation or loss of Tribal election/appointment in a respective Area), ANA will:
 - (1) verify the vacancy by contacting:
 - (a) the individual;
 - (b) the respective Tribe;
 - (c) and/or the regional/area office to confirm.
 - (2) Send a regional or national letter for the respective vacancy and Indian Tribes will be expected to nominate a replacement.
 - (3) ANA will confirm induction of the new member into TAC and will announce the replacement within a timely manner.
 - ii) **Removal:** TAC members (either Delegate or Alternate) are expected to participate in all meetings. Criteria for TAC removal include the following:
 - (1) If a TAC Delegate does not participate in three consecutive meetings in-person. An excused absence weighs toward a consecutive absence.

- (2) If a TAC Alternate does not participate in a meeting, in-person or by telephone, on three successive occasions. An excused absence weighs toward a consecutive absence.
- (3) ANA will notify Indian Tribes in the respective Region and ask them to nominate a replacement. ANA will confirm induction of the new TAC and will announce the replacement within a timely manner.

d) **Speaking:** Discussion and Representation

FACA exemption compliance: Pursuant to the charter third paragraph under B. Meetings, the charter states:

“The meetings will be limited to only official representatives of the committee. Tribal delegates will be allowed to bring one-technical advisor to the meeting to assist them with their duties and responsibilities as a member of the TAC. The advisor's role is limited to assisting the member, and the advisor cannot participate in the meetings of the TAC, unless the advisor has been designated by the elected Tribal official to act on behalf of the official at the meeting. Subject to the availability of funds, ACF will be responsible for paying the travel airline, lodging and per diem for TAC (Primary and Alternates) members.”

The TAC is exempt from the Federal Advisory Committee Act (FACA) because the members of the TAC meet the “Tribal Leader Exception.” Tribal Leaders can participate on the TAC themselves or may specifically designate, in writing, an alternate to sit on the advisory group on his/her behalf. The Alternate Delegate will not be able to sit on the TAC at the same time as the Primary Delegate and will not be able to actively participate in any discussions unless seated on the TAC as a Delegate. The tribal leader can also temporarily designate a special guest/technical advisor as his/her alternate in accordance with the process delineated above.

8. SCHEDULING OF MEETINGS

- a) **Scheduling of Meetings:** ACF will attempt to schedule TAC meetings so that they are not in conflict with other ACF-tribal consultations/negotiations or National Tribal events. The TAC will preset meeting dates in advance with adequate time to maximize planning and attendance.
- b) **Schedule of regular and special meetings:**
 - i) Pending availability of funds, TAC will sponsor three face-to-face meetings per fiscal year in Washington, D.C. Sponsorship will include travel and per diem (lodging and food) for the thirteen Primary Delegates and NALM representatives. If funds are available one TAC meeting will be held in Indian Country.
 - ii) Informational conference calls will be held as needed. ANA will provide a teleconference phone number with adequate time for maximal attendance.
- c) **Minutes:** Minutes will be recorded at each TAC meeting. The minutes will be given to the TAC members within 30 days of any meeting for review. The meeting minutes will be approved at the beginning of the next TAC meeting and adopted for the official record.

d) **Agenda:** The agenda will be developed in draft form 30 days prior to the TAC meeting. Suggestions and comments must be given on the draft agenda. ANA will then confirm all suggested topics and speakers. The agenda will be sent to TAC members 5 working days prior to the TAC meeting. In the event that the agenda requires a presentation/discussion of national interest from a member of the public, a NALM will yield his/her seat on a rotating basis to comply with the FACA exemption. If a respective Region delegate requests the agenda item that respective Region delegate will yield his/her seat for the presentation.

e) **Open/Public meeting:** If the TAC meeting is open to the public, only the TAC delegates/alternates or the federal representatives can participate in the actual meeting. Other attendees must not engage in communication during the meeting with the TAC unless the attendee is made an official alternate designee in writing.

f) **TAC Member Participation in non-TAC meetings and forums:** Individual members of the TAC can participate in meetings with the public. Additionally, TAC members can and should meet with the Indian Tribes in the regions they represent to get information and hear concerns from those respective Indian Tribe. However, the TAC as a whole cannot participate in meetings with members of the public. For instance, the entire TAC membership could not participate in a national meeting and hear questions or concerns from the audience. The TAC member should only share TAC related information that the TAC has deemed public. Any information the TAC considers non-public should not be shared outside the TAC. TAC members can only speak on behalf of TAC if the TAC has authorized that member to speak on its behalf.

9. TRIBAL ADVISORY COMMITTEES (TAC)

ACF currently has one Tribal Advisory Committee (TAC) which is established at the Assistant Secretary level. If other ACF Program Offices form a TAC, then those TACs will be covered by this provision. Members of the TAC may invite representatives from an HHS TAC to speak to the ACF TAC. If an HHS TAC representative addresses the TAC, a TAC member must cede his/her seat during the presentation. TAC representatives will only be allowed to present on the issue requested by the TAC and will not have general participation or voting privileges. After each official ACF TAC meeting, the TAC will also be requested to provide an official issue paper to the HHS STAC.

10. OTHER

- a) **Conflict of Interest:** Members of the TAC will make any and all efforts to avoid and disclose conflicts of interest.
- b) **Revision or Amendment of Charter:** Will be approved by the TAC and forwarded to the Assistant Secretary for Final Approval.

EFFECTIVE DATE: 3-5-2014

REVIEWED: N/A

REVISED: N/A